

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

Z. EDWIN MEYER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0893

Decision No. CU 449

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$4,576.72 plus interest, was presented by Z. EDWIN MEYER based upon the asserted loss of payment for merchandise shipped to Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The record includes copies of claimant's invoices, as below, which reflect the sale and delivery of merchandise to various Cuban consignees, for which payment was to be made on bank drafts drawn upon the consignee.

<u>Invoice Number</u>	<u>Customer</u>	<u>Invoice Date</u>	<u>Invoice Amount</u>	<u>Freight &amp; Fees</u>	<u>Total</u>
5510	Juan Pujol	11/19/59	\$ 422.52	\$ 43.72	\$ 466.24
5529	Metalurgica Benavente	11/17/59	1,060.22	72.44	1,132.66
5583	Matamales, Hermano y Cia.	12/ 9/59	408.10	41.66	449.76
4698	Sanitarios Orbe, S.A.	2/ 6/59	415.46	48.35	463.81
4676	" " " " "	1/30/59	2,715.06	232.74	2,947.80
5232	V.Mercade y Cia.,S. en C.	8/19/59	417.80	99.72	517.52
4393	La Casa Pons	10/24/58	3,917.27	394.15	4,311.42

The record also shows that credits amounting to \$1,965.20 were applied to invoice No. 4676, thus reducing the amount due to \$982.60; and that credits amounting to \$3,461.42 were applied to invoice No. 4393, thus reducing the amount due on that invoice to \$850.00.

Additionally, the record includes copies of letters addressed to claimant from various Cuban collecting banks, as below, each of which informs claimant that the draft in question had been paid provisionally in local currency and that dollar reimbursement authorizations were being awaited.

<u>Bank</u>	<u>Date of Advice</u>	<u>Amount Paid</u>	<u>Less Agents Comm.</u>	<u>Total Due</u>
Banco Continental Cubano	11/16/59	\$ 850.00	\$116.92	\$ 733.08
Banco Hipotecano Mendoza	1/18/60	466.24	12.68	453.56
Trust Company of Cuba	2/ 5/60	1,132.66	31.81	1,100.85
First National Bank of Boston	2/25/60	517.52	12.40	505.12
Trust Company of Cuba	3/16/60	449.76	12.07	437.69
Bank of Nova Scotia	4/ 6/60	982.60	89.22	893.38
Royal Bank of Canada	10/16/61	463.81	10.77	453.04
Total				\$4,576.72

Claimant states that it has never received the funds.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded transfers of funds, in this and similar cases, by numerous, unreasonable and costly demands upon the consignees, who were thus deterred

from complying with the demands of the Cuban Government. The Commission holds that Cuban Law 568 and the Cuban Government's implementation thereof, with respect to the rights of the claimant herein, was not in reality a legitimate exercise of sovereign authority to regulate foreign exchange, but constituted an intervention by the Government of Cuba into the contractual rights of the claimant, which resulted in the taking of American-owned property within the meaning of Section 503(a) of the Act. (See the Claim of The Schwarzenbach Huber Company, FCSC Claim No. CU-0019.)

Accordingly, in the instant claim the Commission finds that claimant's property was lost as a result of intervention by the Government of Cuba and that, in the absence of evidence to the contrary, the loss occurred on November 17, 1959 as to \$733.08, on January 19, 1960 as to \$453.56, on February 6, 1960 as to \$1,100.85, on February 26, 1960 as to \$505.12, on March 17, 1960 as to \$437.69, on April 7, 1960 as to \$893.38, and on October 17, 1961 as to \$453.04, in each case the day after the collection was acknowledged by the collecting bank.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the dates on which the losses occurred, to the date on which provision is made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that Z. EDWIN MEYER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Thousand Five Hundred Seventy-Six Dollars and Seventy-Two Cents (\$4,576.72) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

**OCT 25 1967**

*Edward D. Re*

Edward D. Re, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*LaVern R. Dilweg*

LaVern R. Dilweg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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